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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

WILLIE MAYES,

Defendant and Appellant.

B212325

(Los Angeles County
Super. Ct. No. BA336148)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Norman J. Shapiro, Judge. Affirmed.

Lori E. Kantor, under appointment by the California Court of Appeal, for
Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Officers responding to a burglar alarm encountered defendant Willie Mayes alone inside a gift shop, wearing black gloves and carrying a cash register. Defendant had a backpack and book bag over his shoulder, inside of which were numerous burglary tools. According to the gift shop owner, two boxes of merchandise were missing as well as \$50 taken from the cash register. The front door of the shop showed signs of being pried open. Following his arrest, defendant was charged by information with one count of commercial burglary (Pen. Code, § 459) and one count of possession of burglary tools (Pen. Code, § 466). The information further alleged as to the burglary count that defendant had suffered 11 separate convictions for felonies (Pen. Code, § 667.5, subd. (b)).

Defendant appeared in propria persona at his arraignment, pleaded not guilty to the charges and denied the prior prison term allegations. The trial court found he knowingly and voluntarily waived his Sixth Amendment right to counsel under *Faretta v. California* (1975) 422 U.S. 806 [95 S.Ct. 2525, 45 L.Ed.2d 562]. Defendant continued to represent himself throughout the proceedings.

Defendant waived his right to trial by jury in favor of a bench trial. He testified at trial in his own defense, claiming he was arrested by police as he was walking home from work. The tools inside his backpack and book bag were used for his construction work in installing glass. As part of his defense, defendant referred to a *Pitchess* motion (*Pitchess v. Superior Court* (1974) 11 Cal.3d 531; Evid. Code, §§ 1043-1045) and a motion to set aside the information (Pen. Code, § 995), which were never heard by the trial court.

At the conclusion of the trial, the trial court found defendant guilty of both counts. His motion for new trial was denied. The court found defendant had suffered two prior prison term enhancements. Immediately thereafter, defendant was sentenced to an aggregate state prison term of four years, consisting of the upper term of three years for burglary plus one year for the prior prison term enhancement. His sentence on his conviction for possession of burglary tools was stayed under Penal Code section 654. Apparently, the remaining one-year prior prison term enhancement was dismissed in furtherance of justice. (Pen. Code, § 1385.) Defendant received presentence custody

credit of 414 days (276 actual days and 138 days of conduct credit). The court ordered defendant to pay a \$20 security assessment and a \$200 restitution fine. A parole revocation fine was imposed and suspended pursuant to Penal Code section 1202.45.

We appointed counsel to represent defendant on appeal. After examination of the record counsel filed an opening brief in which no issues were raised. On June 9, 2009, we advised defendant that he had 30 days within which to personally submit any contentions or issues he wished us to consider. No response has been received to date.

We have examined the entire record and are satisfied defendant's attorney has fully complied with the responsibilities of counsel and no arguable issues exist. (*Smith v. Robbins* (2000) 528 U.S. 259, 277-284 [120 S.Ct. 746, 145 L.Ed.2d 756]; *People v. Kelly* (2006) 40 Cal.4th 106; *People v. Wende* (1979) 25 Cal.3d 436, 441.)

The judgment is affirmed.

WOODS, Acting P.J.

We concur:

ZELON, J.

JACKSON, J.